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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20180224-EI

Joint petition for rate reductions or
alternative reverse make-whole rate
case against Florida Power & Light
Company, by Office of Public Counsel,
Florida Industrial Power Users Group,
and Florida Retail Federation.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: CHAIRMAN GARY F. CLARK
COMMISSIONER ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, June 9, 2020

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN CLARK: All right. Moving to Item
3 No. 5. Ms. Helton, back to you.

4 MS. HELTON: Item No. 5 is staff's
5 recommendation to close the docket that was opened
6 to address the joint petition filed by OPC, FIPUG
7 and FRF requesting the Commission do three things:

8 The first, place the tax savings generated in
9 2018 by the passage of the Tax Cuts and Jobs Act
10 under Commission jurisdiction.

11 Second, determine if Florida Power & Light's
12 use of the reserve amount to pay Hurricane Irma
13 costs and its decision to replenish the reserve
14 amount of the tax savings violated FPL's 2016
15 settlement agreement.

16 And finally, the third, reduce base rates to
17 account for the projected overearnings associated
18 with the tax cuts act.

19 The first two requests were resolved in other
20 dockets, and the last request concerning Florida
21 Power & Light's overearnings is not warranted here
22 because FPL is not overearning at this time and is
23 expected to earn within its range of return for the
24 remainder of 2020. Therefore, no adjustment to
25 base rates is appropriate at this time. Because

1 these three requests raised in the petition have
2 been resolved, staff recommends that this docket
3 should be closed.

4 It's my understanding that Charles Rehwinkel
5 with OPC, and Schef Wright, representing FRF, would
6 like to address the Commission, and that Jon Moyle
7 with FIPUG, and Maria Moncada would like the
8 opportunity to respond to any comments made.

9 CHAIRMAN CLARK: All right. Thank you, Ms.
10 Helton.

11 Mr. Rehwinkel, are you with us this morning?

12 MR. REHWINKEL: Yes, I am.

13 CHAIRMAN CLARK: All right. You are
14 recognized.

15 MR. REHWINKEL: Thank you very much. Thank
16 you, and good morning, Commissioners. My name is
17 Charles Rehwinkel. I am Deputy Public Counsel.

18 Before you take your intended action today on
19 our petition, I am appearing to make a statement
20 for the record and place our position on this case
21 in the proper context.

22 Commissioners, the Office of Public Counsel
23 still supports the concept underlying the joint
24 customer petition to return federal income tax
25 over-collections to customers, and to reduce rates

1 prospectively.

2 FPL is an outlier in Florida and around the
3 country when its retention of the \$772 million in
4 annual federal income tax payments as compared to
5 the companies who have returned to customers what
6 is rightfully theirs in the nature of overpaid
7 federal income taxes.

8 In Florida, to date, about \$700 million of
9 overpayments have been returned by Tampa Electric,
10 Duke and FPL's sister company, Gulf Power.

11 We understand that the relief requested
12 relating to the reserve amount or amortization
13 mechanism underlying our reverse make-whole case
14 was denied by the Commission. We appealed that
15 decision to the Florida Supreme Court. After
16 reevaluating the underlying order, and reassessing
17 the likelihood of success on the merits, we
18 voluntarily dismissed that appeal.

19 In May of 2019, your professional staff filed
20 a recommendation that would have accomplished the
21 result we were seeking in requiring that all of the
22 \$772 million in annual overpayments of federal
23 income taxes be refunded after Hurricane Irma was
24 paid for sometime last summer. Although, you
25 denied that result as well, we continue to believe

1 that would have been a reasonable outcome, and
2 would have helped, and would continue to help
3 customers who have been struggling.

4 As we enter into uncertain times resulting
5 from the global pandemic, it seems that, more than
6 ever, the many customers of FPL who are struggling
7 to make ends meet could use their overpaid tax
8 money now, especially since the \$772 million
9 belongs to them in the first place.

10 We remain convinced that the right thing to do
11 would be to restore to customer pockets the tax
12 overpayments that they made, and continue to make,
13 especially during these times of uncertainty and
14 economic lost caused by the pandemic.

15 Thank you, Commissioners. And those are all
16 of my remarks, and I am here just to answer
17 questions from here on out.

18 Thank you.

19 CHAIRMAN CLARK: Thank you, Mr. Rehwinkel.

20 Mr. Wright, you are recognized.

21 MR. WRIGHT: Thank you, Mr. Chairman. Good
22 morning, Commissioners. Very briefly.

23 The Florida Retail Federation agrees with the
24 comments of the Public Counsel. I would simply
25 like to add this specific point to Mr. Rehwinkel's

1 remarks.

2 The resolution recommended by the Commission's
3 professional staff would have served, and would
4 still be serving the public interest of Floridians
5 of FPL's five million customers and the state's
6 economy as a whole far better than the outcome that
7 you imposed on those customers when you rejected
8 the staff's recommendation.

9 Thank you.

10 CHAIRMAN CLARK: Thank you, Mr. Wright.

11 Mr. Moyle, any response?

12 MR. MOYLE: We have nothing to add, Mr. Chair.

13 CHAIRMAN CLARK: Thank you, sir.

14 Ms. Moncada, you are recognized.

15 MS. MONCADA: Thank you, Mr. Chairman. Can
16 you hear me?

17 CHAIRMAN CLARK: Yes, we can hear you.

18 MS. MONCADA: Thank you. Good morning, Mr.
19 Chairman and Commissioners. Just a brief response
20 to the comments that have been made.

21 FPL supports staff's recommendation in this
22 docket to close the petition filed by the Office of
23 Public Counsel, FRF and FIPUG for the reasons
24 stated in the recommendation.

25 In response to Mr. Rehwinkel's comments, as

1 well as Mr. -- Mr. Wright's regarding the help that
2 might have been given to FPL's customers, I would
3 just like to say that the -- the decision by the
4 Commission in docket 20180046 is, indeed, helping
5 and benefiting customers in a number of ways. The
6 discretion that FPL was afforded with respect to
7 the storm mechanism, and as well as the flexibility
8 for the reserve mechanism has been essential in
9 providing rate stability. I can give a number of
10 major examples in which customers have been
11 benefiting from your decision.

12 The first was the avoidance of the Hurricane
13 Irma storm charge. Now, that seems like a long
14 time ago, or at least it feels like a long time ago
15 for me, but we can't forget that that avoided the
16 addition of \$4 to \$5 of incremental charges on the
17 customer bills monthly over a multiyear period.
18 That would not have just occurred on the 2018 bill,
19 or appeared on the 2018 bill. It may still be --
20 may still have been on the customer bills today if
21 not for FPL's decision to manage its business
22 through the mechanisms available to it to avoid
23 that charge.

24 And the company is once again positioned to
25 avoid another surcharge. The first major hurricane

1 after Irma was Hurricane Dorian. And like I
2 stated, FPL's position to once again elect not to
3 impose the surcharge which would have added more
4 incremental costs on the customer bills.

5 And more recently, that same mechanism is
6 allowing us to manage additional expenses, such as
7 those that may arise as a result of the global
8 pandemic, COVID-19. That certainly was unexpected
9 and is something that happens maybe once it in a
10 lifetime, but probably less than that, and has been
11 able to help us get through that.

12 So if we view this from an even wider lens,
13 it's your decision and the use of the reserve
14 mechanism that has allowed FPL to stay out for five
15 years. That's two avoided storm charges and five
16 years of rate stability that have been afforded to
17 customers over this time period. It's a mechanism
18 that has worked well under the 2016 rate
19 settlement. It also worked well under the 2012
20 rate settlement. We continue to support your
21 decision in docket 20180046, and we support staff's
22 recommendation in this docket as well.

23 CHAIRMAN CLARK: Thank you, Ms. Moncada.

24 Commissioners, any questions?

25 Commissioner Polmann.

1 COMMISSIONER POLMANN: Thank you, Mr.
2 Chairman.

3 I think on this item, the case background puts
4 things into perspective, but I think the
5 recommendation is very clear. It -- it states in
6 simple terms that the issues here in this docket
7 have been resolved, or are no longer relevant. The
8 comments from parties on the line notwithstanding,
9 I would be prepared to make a recommendation but I
10 will await comments from other Commissioners.

11 CHAIRMAN CLARK: Commissioner Brown.

12 COMMISSIONER BROWN: Thank you. I just have
13 one comment.

14 Mr. Rehwinkel stated that FPL is unique and
15 distinct from other utilities, and I would
16 absolutely agree with that. The reserve mechanism,
17 as Ms. Moncada pointed out, has been advantageous
18 to customers on so many levels, and continues to
19 provide that rate stability in such trying times,
20 so I do support the staff recommendation on this.

21 CHAIRMAN CLARK: Thank you, Commissioner
22 Brown.

23 Commissioner Polmann, you are recognized for
24 your motion.

25 COMMISSIONER POLMANN: Thank you, Mr.

1 Chairman.

2 I would move approval on this item of staff
3 recommendation.

4 COMMISSIONER BROWN: Second.

5 CHAIRMAN CLARK: I have a motion and a second
6 to approve staff recommendation.

7 Any discussion?

8 All in favor, say aye.

9 (Chorus of ayes.)

10 CHAIRMAN CLARK: Opposed?

11 (No response.)

12 CHAIRMAN CLARK: Motion carried.

13 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 15th day of June, 2020.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020